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# A BILL FOR AN ACT

RELATING TO PENALTIES FOR VIOLATIONS ON CERTAIN STATE LANDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to make resolution  
2 of traffic infractions as simple as possible for the average  
3 citizen and to ensure that police, prosecutorial, and judicial  
4 resources are focused on the most serious criminal offenses.  
5 This Act decriminalizes traffic infractions within the  
6 department of land and natural resources' natural area reserves,  
7 game management areas, wildlife sanctuaries, and public hunting  
8 areas so that penalties for these infractions are consistent  
9 with the penalties for similar infractions established for the  
10 state park system by Act 101, Session Laws of Hawaii 2008.

11           SECTION 2. Section 183D-5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "**§183D-5 Penalties.** (a) Any person violating section 183D-  
14 21, 183D-25, 183D-33, or 183D-63 or any rule adopted under this  
15 chapter shall be guilty of a petty misdemeanor, and upon  
16 conviction thereof, shall be punished as follows:



- 1 (1) For a first conviction, by a mandatory fine of not  
2 less than \$100, or imprisonment of not more than  
3 thirty days, or both;
- 4 (2) For a second conviction within five years of a  
5 previous conviction, by a mandatory fine of not less  
6 than \$500, or by imprisonment of not more than thirty  
7 days, or both, and all firearms used in the commission  
8 of the violations shall be considered contraband to be  
9 forfeited to and disposed of by the State; and
- 10 (3) For a third or subsequent conviction within five years  
11 of the first two or more convictions, by a mandatory  
12 fine of not less than \$1,000, or by imprisonment of  
13 not more than thirty days, or both, and all firearms  
14 used in the commission of the violations shall be  
15 considered contraband to be forfeited to and disposed  
16 of by the State.
- 17 (b) Any person violating section [~~183D-66,~~] 183D-25.5, 183D-  
18 26, 183D-27, 183D-32, 183D-62, [~~e~~] 183D-64, or 183D-66 shall be  
19 guilty of a misdemeanor, and upon conviction thereof, shall be  
20 punished as follows:



- 1 (1) For a first conviction by a mandatory fine of not less  
2 than \$200, or by imprisonment of not more than one  
3 year, or both;
- 4 (2) For a second conviction within five years of a  
5 previous conviction, by a mandatory fine of not less  
6 than \$1,000, or by imprisonment of not more than one  
7 year, or both, and all firearms, animal parts,  
8 products, or items containing prohibited animal parts  
9 or products used in the commission of the violations  
10 shall be considered contraband to be forfeited to and  
11 disposed of by the State; and
- 12 (3) For a third or subsequent conviction within five years  
13 of the first two or more convictions, by a mandatory  
14 fine of not less than \$2,000, or by imprisonment of  
15 not more than one year, or both, and all firearms,  
16 animal parts, products, or items containing prohibited  
17 animal parts or products used in the commission of the  
18 violations shall be considered contraband to be  
19 forfeited to and disposed of by the State.



1 (c) Any person who violates section 183D-52 shall be guilty  
2 of a misdemeanor, and upon conviction thereof, shall be punished  
3 as follows:

4 (1) For a first conviction, by a mandatory fine of not  
5 less than \$10,000 and payment of any costs incurred in  
6 the eradication of any deer and the deer's progeny  
7 that has been possessed, transferred, transported, or  
8 released after transport, or by imprisonment of not  
9 more than one year, or both;

10 (2) For a second conviction within five years of a  
11 previous conviction, by a mandatory fine of not less  
12 than \$15,000 and payment of any costs incurred in the  
13 eradication of any deer and the deer's progeny that  
14 has been possessed, transferred, transported, or  
15 released after transport, or by imprisonment of not  
16 more than one year, or both; and

17 (3) For a third or subsequent conviction within five years  
18 of the first two or more convictions, by a mandatory  
19 fine of not less than \$25,000 and payment of any costs  
20 incurred in the eradication of any deer and the deer's  
21 progeny that has been possessed, transferred,



1 transported, or released after transport, or by  
2 imprisonment of not more than one year, or both.

3 (d) Any person who violates section 183D-35, 183D-36,  
4 183D-37, 183D-38, 183D-39, 183D-40, or 183D-42 shall be guilty  
5 of a petty misdemeanor[7] and, upon conviction thereof, shall be  
6 fined not less than \$100 or imprisoned not more than thirty  
7 days, or both.

8 (e) In addition to any other penalty imposed under this  
9 section, a mandatory fine of \$100 shall be levied for each bird  
10 illegally taken under this chapter and a mandatory fine of \$500  
11 shall be levied for each mammal illegally taken under this  
12 chapter.

13 (f) Any person who violates any rule adopted by the  
14 department under this chapter regulating vehicular parking or  
15 traffic movement shall have committed a traffic infraction as  
16 set forth in chapter 291D, which shall be adjudicated as  
17 provided in chapter 291D. A person found to have committed a  
18 traffic infraction subject to this section shall be fined not  
19 more than:

20 (1) \$ \_\_\_\_\_ for a first violation;

21 (2) \$ \_\_\_\_\_ for a second violation; and



1           ~~(3)~~ § \_\_\_\_\_ for a third or subsequent violation.

2           ~~[(f)]~~ (g) Any person who is convicted of violating any of  
3 the game laws of the State, except as provided in subsection  
4 (f), shall immediately have the person's hunting license  
5 forfeited and any person convicted for a second offense shall  
6 not be granted a license to hunt for a period of three years  
7 after the date of the second conviction.

8           ~~[(g)]~~ (h) The environmental court, in lieu of the actual  
9 cash payment of any mandatory fine, may allow the defendant to  
10 perform the community service as directed by the department of  
11 land and natural resources at the rate of one hour of service  
12 for every \$10 of mandatory fine imposed.

13           ~~[(h)]~~ (i) Any criminal action against a person for any  
14 violation of this chapter shall not be deemed to preclude the  
15 State from pursuing civil legal action to recover administrative  
16 fines and costs or monetary assessments against that person.  
17 Any civil legal action against a person to recover  
18 administrative fines and costs or monetary assessments, for any  
19 violation of subtitle 4 of title 12 or any rule adopted pursuant  
20 thereto, or the conditions and restrictions of any license,  
21 permit, or check station thereunder shall not be deemed to



1 preclude the State from pursuing any criminal action against  
2 that person."

3 SECTION 3. Section 195-8, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§195-8 Penalty.** (a) [~~Any~~] Except as provided in  
6 subsection (b), any person who violates any of the laws and  
7 rules applicable to the reserves system, upon conviction  
8 thereof, shall be guilty of a misdemeanor and shall be fined not  
9 less than \$1,000 or imprisoned not more than one year, or both,  
10 for each offense.

11 (b) Any person who violates any section of this chapter or  
12 any rule adopted by the department under this chapter regulating  
13 vehicular parking or traffic movement shall have committed a  
14 traffic infraction as set forth in chapter 291D, which shall be  
15 adjudicated as provided in chapter 291D. A person found to have  
16 committed such a traffic infraction shall be fined not more  
17 than:

- 18 (1) \$ \_\_\_\_\_ for a first violation;
- 19 (2) \$ \_\_\_\_\_ for a second violation; and
- 20 (3) \$ \_\_\_\_\_ for a third or subsequent violation.



1        [~~(b)~~] (c) Except as otherwise provided by law, the board or  
2 its authorized representative by proper delegation is authorized  
3 to set, charge, and collect administrative fines or bring legal  
4 action to recover administrative fees and costs as documented by  
5 receipts or affidavit, including [~~attorneys'~~] attorney's fees  
6 and costs; or bring legal action to recover administrative  
7 fines, fees, and costs, including [~~attorneys'~~] attorney's fees  
8 and costs, or payment for damages or for the cost to correct  
9 damages resulting from a violation of this chapter or any rule  
10 adopted thereunder. The administrative fines shall be as  
11 follows:

- 12            (1) For a first violation, a fine of not more than \$2,500;  
13            (2) For a second violation within five years of a previous  
14            violation, a fine of not more than \$5,000; and  
15            (3) For a third or subsequent violation within five years  
16            of the last violation, a fine of not more than  
17            \$10,000.

18        [~~(e)~~] (d) Any criminal action against a person for any  
19 violation of this chapter or any rule adopted thereunder shall  
20 not be deemed to preclude the State from pursuing civil legal  
21 action to recover administrative fines and costs or monetary





1 assessments against that person. Any civil legal action against  
2 a person to recover administrative fines and costs or monetary  
3 assessments for any violation of this chapter or any rule  
4 adopted thereunder shall not be deemed to preclude the State  
5 from pursuing any criminal action against that person."

6 SECTION 4. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun before its effective date.

9 SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

DLNR; Traffic Infractions; Decriminalization; Wildlife Areas

**Description:**

Decriminalizes traffic infractions within the Department of Land and Natural Resources' natural area reserves, game management areas, wildlife sanctuaries, and public hunting areas. Appropriates funds. (HB1027 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

